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C O N F I D E N T I A L PANAMA 000776

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TAGS: [PGOV](#) [KJUS](#) [PHUM](#) [PINR](#) [PM](#)
SUBJECT: ATTORNEY GENERAL UNDER PRESSURE

Classified By: Political Counselor Debra Hevia for reason 1.4 b and d.

¶1. (C) Summary: Attorney General Ana Matilde Gomez has reported both publicly and privately that she is receiving pressure from the GOP to prosecute former government officials, and she vows to resist the pressure and defend the independence of the AG's office. President Martinelli, frustrated by what he sees as her intransigence, allegedly is pulling strings with supreme court magistrates to orchestrate her dismissal, while civil society is coming to her defense. Gomez's removal would represent a serious setback to judicial independence and the development of democratic institutions in Panama. End summary.

¶2. (C) Attorney General Ana Matilde Gomez is claiming in public fora that she is being pressured by the executive branch to investigate and imprison certain individuals. Privately, she is saying that President Ricardo Martinelli intends to have her removed from her post. The AG represents an independent judicial office and serves a 10-year term. Gomez was appointed by former president Martin Torrijos in 2005 to a term that will expire December 31, 2014, six months after Martinelli's term ends. Martinelli reportedly has been frustrated by her unwillingness or inability to pursue corruption charges against his political rivals, and allegedly has been working behind the scenes with supreme court magistrates to force her out.

Get El Toro, or Get Out

¶3. (C) The Attorney General recently confided in NAS FSN, a retired police commissioner who knows Gomez well, that she is hanging on by a thread. She said she had received about 70 phone calls from Martinelli insisting that she put former president for the opposition PRD Ernesto Perez Balladares, popularly known as "El Toro" (the bull), in jail. Allegedly, former narcotics prosecutor and current supreme court magistrate wannabe Jose Almengor is falsely leading on Martinelli by telling him that the AG could have Perez Balladares in jail within two weeks. Gomez told the Ambassador that during an October 6 meeting of senior GOP security officials at the presidential palace, President Martinelli had pulled aside organized crime prosecutor Jose Ayu Prado for a private conversation. Martinelli asked Ayu

Prado, "What do you need to put El Toro in jail?" She said Ayu Prado was initially flustered by the president's direct attempt to influence a prosecutor, but that he quickly recovered and told Martinelli that prosecutors needed an adequate and independent budget to do their jobs. (Note: Gomez has sought more money, and more fiscal independence from the executive branch. She requested USD89 million for 2010 and received a budget of USD54 million, which was an increase from the 2009 budget of USD43 million, but probably well short of what is needed to prepare for the upcoming switch to the accusatory system.)

14. (C) In addition, the GOP reportedly asked Gomez to pursue corruption charges against former Second Vice President (under the Torrijos administration) Ruben Arosemena, who also held a position in the Panamanian Maritime Authority. She refused to cave to the behind-the-scenes pressure, so in what is becoming the modus operandi, the GOP took it public. Anticorruption Czar Fernando Nunez Fabrega, also Martinelli's cousin, filed a public complaint with the AG's office against Arosemena and two associates for "abuse of authority and corruption of public officials."

15. (C) In an October 6 meeting with the Ambassador, requested on an urgent basis by the AG, Gomez said she felt like she was alone in her fight to maintain independence from the executive branch, but that she was determined not to allow the GOP to use the AG's office for political persecution. She pointed out that her term will outlast Martinelli's, and vowed to fight to save her position until her last breath.

But How?

16. (C) The president cannot fire the Attorney General. However, the Supreme Court could remove her from office by a majority vote if it finds she has committed an offense that could carry a jail sentence. Enter the Saez case. Arquimedes Saez was a prosecutor suspended from his job and criminally indicted in 2005 for accepting a bribe to free a detainee that he was supposed to be prosecuting. Gomez had ordered a wiretap of his phones to gather evidence in the case. In 2007, the supreme court ruled that Gomez did not have authority to order the wiretap without judicial control. Saez has now levied a criminal complaint against Gomez for abuse of authority in ordering the wiretaps. Supreme Court Magistrate Adan Arjona told DEA FSN (a former prosecutor) that President Martinelli has been personally reaching out to supreme court magistrates to ask them to decide against Gomez, and that Martinelli now has the five of nine votes he needs, including Arjona's. DEA FSN points out that "abuse of authority" is not a jailable offense, but that if the supreme court members decided to remove Gomez as a result of this case, there would be no recourse. Interestingly, Gomez asked the Ambassador October 6 if we could take away Saez's visa based on the corruption charges, an indication that she sees him and this case against her as a serious threat.

Allies

17. (C) Gomez may feel like she is alone, but various groups have started lining up in her defense. Civic activist Magaly Castillo of the Pro-Justice Alliance and President of the Panamanian Bar Association Ruben Elias have both denounced government attempts to pressure the AG. The Panamanian Association of Business Executives stands firmly behind Gomez, their former legal counsel. Some newspapers are carrying her story with headlines such as "Civil Society Defends the AG" and "Gomez Repeats Accusations," leaving the GOP in a bad light.

18. (C) Comment: Martinelli was rumored in late August to want Gomez removed, but seemed to back down. Based on what we now know, Gomez's dismissal by the Supreme Court would indicate inappropriate intervention by Martinelli in the independence of the judicial branch, and a serious setback for the development of democratic institutions in Panama.

STEPHENSON